

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

IN RE: ZETIA (EZETIMIBE) ANTITRUST :
LITIGATION :
: :
: Case No. 2:18-md-2836
: :
THIS DOCUMENT RELATES TO: :
All Actions :
:

ORDER

Plaintiffs' jointly moved *in limine* to require Defendants Merck¹ and Glenmark² (collectively, "Defendants") to make available in Plaintiffs' case-in-chief the witnesses Defendants intend to present live at trial. (ECF No. 1804, at 2).³ Defendants jointly opposed Plaintiffs' motion. (ECF No. 1908). The court held a hearing via Zoom on March 8, 2023, at which multiple pretrial matters were argued, including the instant motion *in limine*. For the reasons stated on the record at the hearing, the court ruled that the critical witnesses Plaintiffs identified under Defendants' control, who Defendants intend to call live, be

¹ "Merck" consists of Merck & Co., Inc.; Merck Sharp & Dohme Corp.; Schering-Plough Corp.; Schering Corp.; and MSP Singapore Co. LLC.

² "Glenmark" consists of Glenmark Pharmaceuticals Limited and Glenmark Pharmaceuticals Inc., USA, the latter incorrectly identified as Glenmark Generics Inc., USA.

³ The instant motion is presented in one filing that also contains nine other motions *in limine* and is listed in that document as motion *in limine* No. 5.

available to Plaintiffs as live witnesses in their case-in-chief.⁴ See Sony Music Ent. v. Cox Commc'ns, Inc., No. 1:18cv950, Order at 9 (ECF No. 590) (E.D. Va. November 19, 2019) (granting motion in limine to require "critical witnesses" testifying live for defendant to be available to plaintiffs). The court DIRECTS the parties to meet and confer regarding the schedule and trial availability of the witnesses Plaintiffs identified at the hearing who Defendants may or will call live. Cross examination of any such witness called to testify live in Plaintiffs' case-in-chief may exceed the scope of direct examination to minimize the burden on the witness.

Plaintiffs' separate motion to compel live remote testimony from witnesses beyond the subpoena power of this court who do not intend to testify live for any party remains pending. (ECF No. 1931).

IT IS SO ORDERED.


/s/
Douglas E. Miller
United States Magistrate Judge

DOUGLAS E. MILLER,
UNITED STATES MAGISTRATE JUDGE

March 9, 2023

⁴ The witnesses identified by the Plaintiffs are Timothy Hester, Vijay Soni, Paul Campanelli, Lisa Jakob, David Jankiewicz, Terrance Coughlin, Paul Dutra, and Achin Gupta.